



**Federal Deposit  
Insurance Corporation**

Each depositor insured to at least \$250,000 per insured bank



Advanced Search

Home | Deposit Insurance | Consumer Protection | [Industry Analysis](#) | [Regulations & Examinations](#) | [Asset Sales](#) | [News & Events](#) |

Bank Data & Statistics | [Research & Analysis](#) | [Failed Banks](#)



[Home](#) > [Industry Analysis](#) > [Failed Banks](#) > Professional Liability Lawsuits

## Professional Liability Lawsuits

[Subscribe via Email](#)

As receiver for a failed financial institution, the FDIC may sue professionals who played a role in the failure of the institution in order to maximize recoveries. These individuals can include officers and directors, attorneys, accountants, appraisers, brokers, or others. Professional liability claims also include direct claims against insurance carriers such as fidelity bond carriers and title insurance companies.

The FDIC follows the policies adopted by the FDIC Board in 1992, **Statement Concerning the Responsibilities of Bank Directors and Officers**, which can be found at <http://www.fdic.gov/regulations/laws/rules/5000-3300.html#fdic5000statementct>, and require Board approval before actions are brought against directors and officers.

Professional liability suits are only pursued if they are both meritorious and cost-effective. Before seeking recoveries from professionals, the FDIC conducts a thorough investigation into the causes of the failure. Most investigations are completed within 18 months from the time the institution is closed. Prior to filing the claim, staff will attempt to settle with the responsible parties. If a settlement cannot be reached, however, a complaint will be filed, typically in federal court.

As receiver, the FDIC has three years for tort claims and six years for breach-of-contract claims to file suit from the time a bank is closed. If state law permits a longer time, the state statute of limitations is followed.

Professionals may be sued for either gross or simple negligence. The Supreme Court has ruled that the FDIC may pursue simple negligence claims against directors and officers if state law permits (Atherton v. FDIC). Federal law preempts state law that insulates directors and officers from gross negligence or worse conduct. Bank directors are allowed to exercise business judgment without incurring legal liability.

Not all bank failures result in Director and Officer (D&O) lawsuits. The FDIC brought claims against directors and officers in 24 percent of the bank failures between 1985 and 1992.

From 1986 through 2011, the FDIC and former Resolution Trust Corporation (1989-1995) collected \$6.46 billion from professional liability claims. Over that same time, they spent \$1.77 billion to fund all professional liability claims and investigations. Early in the process of professional liability claims, expenses will often exceed recoveries due to the costs incurred in handling new investigations. Professional liability program recoveries lag expenses by several years until settlements occur and judgments are awarded.

As of February 15, 2013, the FDIC has authorized suits in connection with 102 failed institutions against 836 individuals for D&O liability. This includes 51 filed D&O lawsuits (4 of which have settled and 1 of which resulted in a favorable jury verdict) naming 396 former directors and officers. The FDIC also has authorized 48 other lawsuits for fidelity bond, insurance, attorney malpractice, appraiser malpractice, accounting malpractice, and RMBS claims. In addition, 160 residential mortgage malpractice and fraud lawsuits are pending, consisting of lawsuits filed and inherited.

For additional background on Professional Liability Suits, please see Chapter 11 of "Managing the Crisis: The FDIC and RTC Experience" <http://www.fdic.gov/bank/historical/managing/history1-11.pdf>.

Authorized D&O Defendants	
Authorized in 2009	11
Authorized in 2010	98
Authorized in 2011	264
Authorized in 2012	369
January 2013	46
February 2013	48
<b>Total</b>	<b>836</b>

### D&O Suits Filed

1. *FDIC as Receiver for IndyMac Bank, F.S.B. v. Van Dellen*, Case No. 2:10-cv-04915-DSF-CW (U.S. District Court for the Central District of California Filed Jul. 2, 2010).
2. *FDIC as Receiver of Heritage Community Bank v. Saphir*, Case No. 1:10-cv-07009 (U.S. District Court for the Northern District of Illinois Filed Nov. 1, 2010).
3. *FDIC as Receiver for 1st Centennial Bank v. Appleton*, Case No. 2:11-cv-00476-JAK-PLA (U.S. District Court for

the Central District of California Filed Jan. 14, 2011).

4. *FDIC as Receiver for Integrity Bank of Alpharetta v. Skow*, Case No. 1:11-cv-00111-JEC (U.S. District Court for the Northern District of Georgia Filed Jan. 14, 2011).
5. *FDIC as Receiver of Corn Belt Bank and Trust Company v. Stark*, Case Number 3:11-cv-03060-SEM-BGC (U.S. District Court for the Central District of Illinois Filed Mar. 1, 2011).
6. *FDIC as Receiver of Washington Mutual Bank v. Killinger*, Case No. 2:11-cv-00459-MJP (U.S. District Court for the Western District of Washington Filed Mar. 16, 2011).
7. *FDIC as Receiver for Wheatland Bank v. Spangler*, Case No. 10-cv-04288 (U.S. District Court for the Northern District of Illinois Filed May 5, 2011).
8. *FDIC as Receiver for IndyMac Bank, F.S.B. v. Perry*, Case No. 11-cv-05561-ODW-MRW (U.S. District Court for the Central District of California Filed Jul. 6, 2011).
9. *FDIC as Receiver for Haven Trust Bank v. Briscoe*, Case No. 1:11-cv-02303-SCJ (U.S. District Court for the Northern District of Georgia Filed Jul. 14, 2011).
10. *FDIC as Receiver of Michigan Heritage Bank v. Cuttle*, Case No. 2:11-cv-13442-BAF-MKM (U.S. District Court for the Eastern District of Michigan Filed Aug. 8, 2011).
11. *FDIC as Receiver of The Columbian Bank and Trust Co. v. McCaffree*, Case No. 2:11-cv-02447-JAR-KGS (U.S. District Court for the District of Kansas Filed Aug. 9, 2011).
12. *FDIC as Receiver for Cooperative Bank v. Rippy*, Case No. 7:11-cv-00165-BO (U.S. District Court for the Eastern District of North Carolina Filed Aug. 10, 2011).
13. *FDIC as Receiver for Silverton National Bank, N.A. v. Bryan*, Case No. 1:11-cv-02790-JEC (U.S. District Court for the Northern District of Georgia Filed Aug. 22, 2011).
14. *FDIC as Receiver for First National Bank of Nevada v. Dorris*, Case No. 11-cv-01652-GMS (U.S. District Court for the District of Arizona Filed Aug. 23, 2011).
15. *FDIC as Receiver for Alpha Bank v. Blackwell*, Case No. 11-cv-03423 (U.S. District Court for the Northern District of Georgia Filed Oct. 7, 2011).
16. *FDIC as Receiver for Mutual Bank v. Mahajan*, Case No. 1:11-cv-07590 (U.S. District Court for the Northern District of Illinois Filed Oct. 25, 2011).
17. *FDIC as Receiver for Westsound Bank v. Johnson*, Case No. 3:11-cv-05953-RBL (U.S. District Court for the Western District of Washington Filed Nov. 18, 2011).
18. *FDIC as Receiver of Bank of Asheville v. Greenwood*, Case No. 1:11-cv-00337-MR-DLH (U.S. District Court for the Western District of North Carolina Filed Dec. 29, 2011).
19. *FDIC as Receiver for R-G Premier Bank of Puerto Rico v. Galán-Alvarez*, Case No. 3:12-cv-01029-JAG (U.S. District Court for the District of Puerto Rico Filed Jan. 18, 2012).
20. *FDIC as Receiver of Westernbank Puerto Rico v. García*, Case No. 3:11-cv-02271-GAG (U.S. District Court for the District of Puerto Rico Filed Jan. 20, 2012).
21. *FDIC as Receiver for County Bank v. Hawker*, Case No. 1:12-cv-00127-LJO-DLB (U.S. District Court for the Eastern District of California Filed Jan. 27, 2012).
22. *FDIC as Receiver on Behalf of Silver State Bank v. Johnson*, Case No. 2:12-cv-00209 (U.S. District Court for the District of Nevada Filed Feb 9, 2012).
23. *FDIC as Receiver for Community Bank & Trust v. Miller*, Case No. 2:12-cv-00042-WCO (U.S. District Court for the Northern District of Georgia Filed Feb. 24, 2012).
24. *FDIC as Receiver for Freedom Bank of Georgia v. Adams*, Case No. 1:12-cv-00726-JOF (U.S. District Court for the Northern District of Georgia Filed Mar. 2, 2012).
25. *FDIC as Receiver for Broadway Bank v. Giannoulias*, Case No. 1:12-cv-01665 (U.S. District Court for the Northern District of Illinois Filed Mar. 7, 2012).
26. *FDIC as Receiver for Florida Community Bank v. Price*, Case No. 2:12-cv-00148 (U.S. District Court for the Middle District of Florida Filed Mar. 13, 2012).
27. *FDIC as Receiver for Omni National Bank v. Klein*, Case No. 1:12-cv-00896-RLV (U.S. District Court for the Northern District of Georgia Filed Mar. 16, 2012).
28. *FDIC as Receiver for Cape Fear Bank v. Coburn*, Case No. 7:12-cv-00082-BO (U.S. District Court for the Eastern District of North Carolina Filed Apr. 4, 2012).
29. *FDIC as Receiver for First Bank of Beverly Hills v. Faigin*, Case No. 12-cv-03448 (U.S. District Court for the Central District of California Filed Apr. 20, 2012).
30. *FDIC as Receiver for Innovative Bank v. Hong*, Case No. cv-12-2658 (U.S. District Court for the Northern District of California Filed May 23, 2012).
31. *FDIC as Receiver for Community Bank of Arizona v. Jamison*, Case No. 12-cv-01508 (U.S. District Court for the District of Arizona Filed July 13, 2012).
32. *FDIC as Receiver for Piedmont Bank v. Whitley*, Case No. 12-cv-170 (U.S. District Court for the Northern District of Georgia Filed July 13, 2012).
33. *FDIC as Receiver for Benchmark Bank v. Samuelson*, Case No. 1:12-cv-07907 (U.S. District Court for the Northern District of Illinois Filed Oct. 2, 2012).
34. *FDIC as Receiver for American United Bank v. Thompson*, Case No. 1:12-cv-03620-AT (U.S. District Court for the Northern District of Georgia Filed Oct. 17, 2012).
35. *FDIC as Receiver for United Security Bank v. Neese*, Case No. 1:12-cv-03694-SCJ (U.S. District Court for the Northern District of Georgia Filed Aug. 23, 2012).
36. *FDIC as Receiver for Ameribank v. Baldini*, Case No. 1:12-cv-07050 (U.S. District Court for the Southern District of West Virginia Filed Oct. 26, 2012).
37. *FDIC as Receiver for Pacific Coast Bank v. Hahn*, Case No. 8:12-cv-01938 (U.S. District Court for the Central District of California Filed Nov. 6, 2012).
38. *FDIC as Receiver for Century Bank, FSB v. Florescue*, Case No. 8:12-cv-02547-SMJ-TBM (U.S. District Court for the Middle District of Florida Filed Nov. 9, 2012).
39. *FDIC as Receiver of Community Bank of West Georgia v. Hayden*, Case No. 3:12-cv-00165-TCB (U.S. District Court for the Northern District of Georgia Filed Nov. 15, 2012).
40. *FDIC as Receiver for Buckhead Community Bank of Atlanta v. Loudermilk*, Case No. 1:12-cv-04156-TWT (U.S. District Court for the Northern District of Georgia Filed Nov. 30, 2012).
41. *FDIC as Receiver for First Security National Bank v. Baker*, Case No. 12-cv-04173-RWS (U.S. District Court for the

Northern District of Georgia Filed Dec. 3, 2012).

42. *FDIC as Receiver for Rockbridge Commercial Bank v. McKinnon*, Case No. 1:12-cv-04313-TCB (U.S. District Court for the Northern District of Georgia Filed Dec. 13, 2012).
43. *FDIC as Receiver for Peoples First Community Bank v. Brudnicki*, Case No. 5:12-cv-00398-RS-GRJ (U.S. District Court Northern District of Florida Filed Dec. 17, 2012).
44. *FDIC as Receiver for Alliance Bank v. Reis*, Case No. 8:12-cv-02212-JST-AN (U.S. District Court Central District of California Filed Dec. 21, 2012).
45. *FDIC as Receiver for Charter Bank of New Mexico v. Wertheim*, Case No. 1:13-cv-00050 (U.S. District Court for the District of New Mexico Filed Jan. 17, 2013).
46. *FDIC as Receiver for Columbia River Bank v. Christensen*, Case No. 3:13-cv-00109-PK (U.S. District Court for the District of Oregon Filed Jan. 18, 2013).
47. *FDIC as Receiver for First National Bank of Georgia v. Lipham*, Case No. 3:13-cv-000140-TCB (U.S. District Court for the Northern District of Georgia Filed Jan. 25, 2013).
48. *FDIC as Receiver for American Marine Bank v. Townsend*, Case No. 3:2013-cv-05055 (U.S. District Court for the Western District of Washington Filed Jan 25, 2013).
49. *FDIC as Receiver for Security Savings Bank v. Jones*, Case No. 2:2013-cv-00168 (U.S. District Court for the District of Nevada Filed Jan. 31, 2013).
50. *FDIC as Receiver for Orion Bank v. Aultman*, Case No. 2:13-cv-00058-UA-SPC (U.S. District Court for the Middle District of Florida Filed Jan. 29, 2013).
51. *FDIC as Receiver for LaJolla Bank FSB v. Colbourne*, Case No. 3:2013-cv-00351 (U.S. District Court for the Southern District of California Filed Feb. 13, 2013).

Last Updated 2/15/2013

[communications@fdic.gov](mailto:communications@fdic.gov)

[Home](#) | [Contact Us](#) | [Search](#) | [Help](#) | [SiteMap](#) | [Forms](#) | [En Español](#)

[Website Policies](#) | [Privacy Policy](#) | [Plain Writing Act of 2010](#) | [USA.gov](#) | [FDIC Office of Inspector General](#)

[Freedom of Information Act \(FOIA\) Service Center](#) | [FDIC Open Government Webpage](#) | [No FEAR Act Data](#)